

REPORT OF GENERAL MANAGER

NO. 04-06

DATE January 7, 2004

C.D. 11

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: VENICE BEACH OCEAN FRONT WALK OUTDOOR DINING PERMITS:  
REQUEST FOR APPROVAL OF PROPOSED PERMIT, PROCEDURES AND  
GUIDELINES FOR RESTAURANT OUTDOOR DINING ACTIVITIES ON OCEAN  
FRONT WALK AT VENICE BEACH, AND ADOPTING OF PROPOSED PERMIT  
FEES.

J. Combs \_\_\_\_\_  
A. Corrales \_\_\_\_\_  
J. Kolb \_\_\_\_\_

\*B. Lukehart \_\_\_\_\_  
H. Fujita \_\_\_\_\_

  
General Manager

Approved \_\_\_\_\_

Disapproved \_\_\_\_\_

Withdrawn \_\_\_\_\_

RECOMMENDATION:

It is recommended that the Board:

- 1) Adopt the proposed permit guidelines and procedures (Attachment-A) for the administration and enforcement of the proposed Ocean Front Walk (OFW) Outdoor Dining Permit (ODP) requirements; and,
- 2) Adopt the proposed ODP fees contained on page 3 of Attachment-A, as an addition to the Department Manual of Rates and Fees; and,
- 3) Grant the Department authorization to issue OFW Outdoor Dining Permit(s) (Attachment-B) at the administrative level to restaurants and eating establishments located along the OFW right-of-way in the community of Venice; and,
- 4) Authorize the Department's Operations West field staff to be the initial enforcement body, as described in the proposed policy and guidelines, responsible for the monitoring, recording and reporting of permit violations; and,
- 5) Authorize the Department to establish a member panel, as described on page 5 of Attachment-A, to conduct permit suspension and revocation appeal conferences when requested, according to program procedures and guidelines; and,
- 6) Direct the Board Secretary to transmit a copy of the ODP, policy, and procedures and guidelines to the City Attorney for review as to form and legality.

## REPORT OF THE GENERAL MANAGER

PG. 2

NO. 04-06

### SUMMARY:

Venice Beach has always been known for its beautiful scenery, unique atmosphere, and extensive outdoor recreational activities, but one of the most appealing elements of Venice Beach has always been the opportunity to dine on outdoor patios while taking in the Venice ambiance. Recognizing the value of Venice Beach as a popular tourist attraction and overall local hotspot, the Department of Recreation and Parks (Department) took on the task of refurbishing the long neglected beach front property. In January of the year 2001, the Venice Beach Ocean Front Walk Improvement Project was completed and the Department, along with the City Council Office and various Venice community groups and businesses hosted the grand "re-opening" of the refurbished Venice Beach Ocean Front Walk.

Prior to commencing the beach improvement project, permits allowing use of City property at Venice Beach were administered by the City's Department Of Public Works, Bureau of Engineering (BOE). Although OFW and Venice Beach have always technically been under the Department's authority by virtue of Ordinances No.63869 and No.64776, passed by City Council in 1929, the BOE historically had administered permitting activities along OFW, because it was considered a public right-of-way, owned by the City of Los Angeles (City).

In August 1999, to accommodate future construction and improvement activities associated with the Improvement Project and to reduce any potential interference, the Department required that all privately owned fixtures and materials located on City property (OFW) be removed. The Department requested that the BOE revoke, as of September 21, 1999, all prior encroachment permits issued to OFW restaurants, temporarily halting outdoor dining activities along OFW.

Almost immediately following the completion of the OFW improvements, restaurateurs along OFW reestablished outdoor dining operations, encroaching onto OFW presumably under the assumed authorization of the previously issued BOE permits. In an effort to regulate outdoor dining activities at OFW and limit potential future damage to the new beach improvements, the Department took on the responsibility of administering future encroachment permits related to OFW. As a result of discussions among the Department, Council Office, City Planning Department, Los Angeles Police Department (LAPD), and California Coastal Commission, it was determined that any future encroachment permits along the OFW right-of-way would be strictly limited to outdoor dining.

If approved by the Board, the Department's ODP process will help control and organize the current unregulated use of OFW by restaurants. The ODP process will provide the City with the mechanism to regulate outdoor dining activities along OFW. An ODP will not supercede or replace any existing permit, license or certificate required by other City, County or State agencies. Issuance of the ODP will be contingent upon the restaurant operator's compliance with all applicable City codes, laws, regulations and requirements, including but not limited to applicable City Planning clearances.

REPORT OF THE GENERAL MANAGER

PG. 3

NO. 04-06

Although any commercial unit along the OFW has the potential to become a restaurant, there are presently only six (6) restaurants and/or commercial units located along OFW, which possess the capacity or potential for conducting outdoor dining activities. Based on staff and Planning Department research, it is understood that five (5) of these restaurants have historically existed on OFW and have previously conducted outdoor dining activities under prior BOE encroachment permits or currently possess valid coastal development permit.

The Department's Real Estate and Asset Management Section (Real Estate) will be responsible for processing initial permit applications and later requests for subsequent permits upon expiration of the current permit term. Real Estate will review the permit application and attached materials, verify compliance with permit requirements and issue the ODP. If Board approval is obtained, ODPs will be issued at the administrative level in the same manner as revokable right-of-entry and other temporary permits are issued by staff from the Department's Real Estate and Asset Management Section, area offices and Operations Support unit. The application process will involve a \$100 Administrative Fee, which will be a one time, non-refundable payment. The Administrative Fee will be deposited into the Department's Real Estate and Asset Management Section MRP No. 935, Account No. 1702, to pay expenses associated with the initial processing of permit applications.

Unlike the prior BOE permits, which required only a one time fee at the inception of outdoor dining operations and carried an indefinite term or unspecified date of expiration, the Department's ODP process will require an annual fee payment based on the size of the permit area, and will carry a three (3) year term subject to periodic reviews. Although the proposed permit term has been limited to three (3) years, permittees will have the opportunity to reapply for "Subsequent Permits" which will carry additional three (3) year terms, provided the permittee and permitted activities remain in good standing. Permit fees will be prorated and invoiced annually over the course of the three (3) year term.

The proposed permit fees are listed below and on page 3 of the attached Procedures and Guidelines.

ODP Area Size Range	3 Year Term ODP Fee	Annual Payment
Up to 300 Square Feet	\$1,725.00	\$575.00
301 Square Feet or More	Contingent on Size of ODP Area	\$1.95 per Square Foot

The Department's Revenue Accounting unit will be responsible for invoicing each annual payment, specifying the specific due date for each scheduled payment. ODP fees will be deposited into MRP 676 (Venice Beach); Department 88, Fund No. 301, Revenue Source No. 4155 and appropriated into

## REPORT OF THE GENERAL MANAGER

PG. 4

NO. 04-06

Account No. 000B. MRP Accounting will establish a sub-account under MRP 676 for the Department's use, to supplement the existing Venice Beach maintenance account and pay expenses associated with conducting ODP suspension and revocation appeal conferences.

The permit area will be limited to a maximum of 10 ft., east to west, perpendicular to the building structure and limited to the width of the building and within the business' own property lines. The permittee will be required to enclose the permit area with the placement of removable, nonpermanent, unattached barriers, consisting of a maximum height of no more than four (4) feet.

The permittee will be responsible for any damage to the OFW right-of-way resulting from the permittee's business activities and/or customers. As standard with all City agreements, an indemnity agreement and general liability insurance will be required of the permittee and proof provided prior to permit execution. The amount of required insurance coverage has been verified and confirmed by the CAO's Risk Management Division.

Under the Department's proposed procedures and guidelines, OFW outdoor dining activities will be monitored by Operations West field staff. The Senior Recreation Director II (SRD II) assigned to Venice Beach will be in charge of coordinating field staff responsible for monitoring the permit areas and reporting of permit violations. The SRD II will be responsible for recording violation evidence through photographs, measurements, and testimony. Administrative support will be provided by Real Estate, which will enforce ODP provisions, related guidelines and requirements.

ODP provisions will be enforced through a three (3) option enforcement process; (i) Letter of Warning; (ii) Permit Suspension; and (iii) Permit Revocation. A letter of warning carries no penalty. Permit suspensions can range from one (1) to six (6) months during an ODP term. A permit's revocation remains in effect until the permit term expires, upon which the permittee could reapply for another permit, should the permittee wish to reestablish outdoor dining operations. ODP revocation procedures will include an appeal process which involves an appeal conference, if requested by the permittee, as specified on page 5 of the attached procedures and guidelines. The Appeal Conferences will consist of a hearing conducted by a member panel consisting of a Department representative designated by the General Manager, a member of the Park Advisory Board, and a member of the community chosen by the Office of Councilmember Cindy Miscikowski.

In addition to obtaining input from the Department's Operations West and Revenue Accounting units, the ODP and its procedures and guidelines have been reviewed and commented upon by the City Attorney's Real Property Division, the Office of Councilmember Cindy Miscikowski, the City Attorney Venice Prosecutor's Office, the LAPD, and the City's Planning Department. Comments and suggestions from each of the above offices were considered and incorporated in the development of the final documents.

REPORT OF THE GENERAL MANAGER

PG. 5

NO. 04-06

The Department's Environmental Management staff has determined that the proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Article VII, Section 1, Classes 4 (7) and 5 (2) of the City CEQA Guidelines.

This report was produced by Joel Alvarez, Management Analyst II from the Department's Real Estate and Asset Management Section.